

THE HONORABLE JOHN C. COUGHENOUR

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

U.S. BANK, N.A.,

Plaintiff,

v.

ENTERTAINER, Official No. 627953, their
Engines, Machinery, Appurtenances, etc.,
In Rem;

and

FIRST CAPITAL PARTNERS, LTD., and
S. HILTON SMITH,
In Personam,

Defendants.

IN ADMIRALTY

Case No. CV05-1534C

ORDER TO DISMISS
DEFENDANTS' COUNTER-
CLAIM

This matter comes before the Court on Plaintiff's Motion to Dismiss Defendants' Counter-Claim (Dkt. No. 44).

The Court notes that this motion appears to be moot (*see* Order (Dkt. No. 35)) because the relief sought has already been agreed to by Defendants. Moreover, the instant motion was filed well past the dispositive motions deadline in this case, and is therefore untimely. Yet, no opposition has been filed by Defendants.

Accordingly, Defendants' First Capital Partners, Ltd. and S. Hilton Smith's counter-claim for the return of personal property or judgment against the plaintiff U.S. Bank, N.A. for the value of such property is DISMISSED with prejudice.

DATED this 7th day of November, 2006.

A handwritten signature in black ink, reading "John C. Coughenour", is written over a horizontal line.

JOHN C. COUGHENOUR
UNITED STATES DISTRICT JUDGE